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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,115	09/16/2003	Mark Scott	3831 P 004	1821

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WALLENSTEIN WAGNER & ROCKEY, LTD  
311 SOUTH WACKER DRIVE  
53RD FLOOR  
CHICAGO, IL 60606

EXAMINER
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JULES, FRANTZ F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/663,115

Applicant(s)

SCOTT, MARK

Examiner

Frantz F. Jules

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 and 22-24 is/are allowed.
- 6) ☒ Claim(s) 25 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/23/2004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Figs. 1-7 in the reply filed on 12/27/2004 is acknowledged.

***Claim Objections***

2. Claim 21 is objected to because of the following informalities:

In claim 21, line 1, the phrase "claim 1" should be changed to "claim 1—".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, line 1, the phrase "wherein draft movement of the piston is permitted when the valve is in the closed position" is confusing as it is unclear how can draft movement of the piston take place when the valve is closed since when the valve is closed there can be no fluid movement in the valve.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3617

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monaco (US 6,279,765) in view of Nealis (US 3,414,134).

Monaco teaches all the limitations of claim 25 except for a cushioning device for a railroad car comprising a remotely controlled valve having a closed position that inhibits buff movement of the piston by blocking fluid flow. The general concept of providing a remotely controlled valve having a closed position that inhibits buff movement of the piston by blocking fluid flow in a piston cylinder coupler is well known in the art as illustrated by Nealis which discloses the teaching of a remotely controlled valve having a closed position that inhibits buff movement of the piston by blocking fluid flow, see col 3, lines 40-73. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Monaco to include the use of a remotely controlled valve having a closed position that inhibits buff movement of the piston by blocking fluid flow in his advantageous cushioning device as taught by Nealis in order to provide the additional and important advantage of providing a cushioning or yielding effect as between cars.

***Allowable Subject Matter***

7. Claim 21 is objected for the informalities as listed above, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 1-20, 22-24 stand allowable. None of the references of record suggests a rail car cushioning device connected to a coupler comprising a valve body in fluid

communication with the cylinder wherein said valve body having an inlet opening and an outlet opening defining a passageway with a valve member interposed in the passageway being movable between an open position and a closed position to control fluid flow through the passageway.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Bissett and Tomlinson and Litten are cited to show related railroad car cushioning device comprising valve system.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

February 3, 2005

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

A handwritten signature in black ink, appearing to be 'Frantz F. Jules', written over a horizontal line.